

1 Tatyana Evgenievna Drevaleva
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5 Plaintiff in Pro Per

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7 THE UNITED STATES DISTRICT COURT
8 FOR NORTHERN CALIFORNIA
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11) Case No. 3:18-cv-03748-JCS
12 Tatyana E. Drevaleva)
13 Plaintiff,) Notice of Motion; First Motion for a
14 vs.) Summary Judgment by the Court,
15) the F.R.C.P. Rule 56(f);
16 Mr. Denis Richard McDonough in his) Memorandum of Points and Authorities;
17 capacity as a Secretary of the U.S.) Declaration; Proposed Order.
18 Department of Veterans Affairs)
19 810 Vermont Avenue, NW,) Date: August 13, 2021
20 Washington, D.C. 20420)
21 Defendant) Time: 09:30 AM
22 Facility:) Location: Courtroom F – 15th Floor
23 New Mexico VA Healthcare System) 450 Golden Gate Avenue,
24 1501 San Pedro Drive, S.E.) San Francisco, CA 94102
25 Albuquerque, NM, 87108)
26) Judge: The Hon. Chief Magistrate
27) Judge Joseph C. Spero
28)

TO THE HONORABLE COURT, ALL PARTIES, AND COUNSEL ON RECORD.

NOTICE IS HEREBY GIVEN that on 08/13/2021 at 09:30 AM or as soon thereafter as the matter may be heard in Courtroom F at the 15th Floor of the District Court for Northern California located at 450 Golden Gate Avenue, San Francisco, CA 94102, Plaintiff Pro Se Tatyana Drevaleva will move the Court first time for a Summary Judgment by the Court pursuant to the F.R.C.P. Rule 56(f.)

Said First Motion for a Summary Judgment by the Court shall be based on this Notice, the attached First Motion for a Summary Judgment by the Court pursuant to the F.R.C.P. Rule 56(f), the attached Memorandum of Points and Authorities, the attached Declaration, the pleadings and papers on file, and on such additional matters as may be presented to the Court prior to or at the hearing.

Dated: July 08, 2021 Signed: Tatyana Drevaleva

opt

MEMORANDUM OF POINTS AND AUTHORITIES

Statement of Facts.

On May 04, 2021, the Hon. Judge Joseph C. Spero issued a “NOTICE REGARDING SUMMARY JUDGEMENT MOTIONS” where the Judge wrote, page 1, lines 25-26, “Defendant(s) in this case may file a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure.”

On June 04, 2021, Assistant U.S. Attorney Ms. Adrienne Zack filed a frivolous and unsworn Answer to my Original June 25, 2018 Complaint No. 3:18-cv-03748-JCS. This Answer was filed in violation of 38 CFR § 14.514(a) because there was no evidence that Secretary of the United States Department of Veterans Affairs:

- 1) ever forwarded my Original June 25, 2018 Complaint No. 3:18-cv-03748-JCS to the Office of General Counsel
- 2) ever obtained the material facts of the case
- 3) ever coordinated with the Regional Counsel, and
- 4) ever coordinated with the U.S. Department of Justice regarding the representation of both Defendants the U.S. Department of Veterans Affairs and Secretary of the U.D. Department of Veterans Affairs in the lawsuit No. 3:18-cv-03748-JCS.

Also, the June 04, 2021 Answer violated 28 U.S.C. § 1746 and the F.R.C.P. Rule11 (b). Up to today, I have filed three Motions to Strike this Answer in its entirety or partially. Also, in my July 05, 2021 Motion to Disqualify the Opposing Counsel from representing Federal Defendants in the lawsuit No.3:21-cv-00500-JCS, I asked the District Court to permanently disqualify Assistant U.S. Attorney Ms. Adrienne Zack from representing Federal Defendants in the lawsuit No. 3:18-cv-03748-JCS. The hearing date of this Motion is scheduled on August 13, 2021.

Currently, Defendants' Motion to Summary Judgment in the lawsuit No. 3:18-cv-03748-JCS should be filed not later than on August 13, 2021. However, if the Court grants my Motion

1 to Disqualify Ms. Zack from representing Federal Defendants in both lawsuits No. 3:21-cv-
 2 00500-JCS and 3:18-cv-03748-JCS, I will be severely suffering from another long delay of a fair
 3 resolution of my lawsuit No. 3:18-cv-03748-JCS.

4 Despite Defendants were given more than three months for conducting Discovery and for
 5 preparing to file their Motion for Summary Judgment in case No. 3:18-cv-03748-JCS, up to
 6 today, Defendants haven't propounded any Discovery request to me. As I previously explained,
 7 in my case Defendants don't need any Discovery. There is no indication that Defendants ever
 8 want to propound a Discovery request to me.

9 To me, it is obvious that, procrastinating until August 13, 2021, Defendants keep
 10 committing subjective bad faith tactics that are frivolous, harassing, and that are solely intended
 11 to cause an unnecessary delay of the litigation No. 3:18-cv-03748-JCS.

12 Moreover, even if Ms. Zack files a Motion for Summary Judgment, there is no evidence
 13 that this Motion will be based on the truthful facts of the case, and there is no evidence that this
 14 Motion will represent the true and genuine interests of the U.S. Department of Veterans Affairs
 15 and Secretary of the U.S. Department of Veterans Affairs.

16 Therefore, I am moving the U.S. District Court for the Northern District of California for
 17 an Order that decides on the Summary Judgment by the Court pursuant to the F.R.C.P. Rule
 18 56(f.)

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20 **Legal Standard.**

21 Read the F.R.C.P. Rule 56(f),

22 “(f) Judgment Independent of the Motion. After giving notice and a reasonable time to
 23 respond, the court may:

24 (1) grant summary judgment for a nonmovant;
 25 (2) grant the motion on grounds not raised by a party; or
 26 (3) consider summary judgment on its own after identifying for the parties
 27 material facts that may not be genuinely in dispute.”

1 **Conclusion.**

2 Based on the material facts of the case that are presented in my Investigative File (**ER**
3 **03748 Vol. 1**) and based on the legal standards that the Parties already presented to the attention
4 of the Court, I am respectfully asking the District Court to decide on the Summary Judgment
5 Motions on its own pursuant to the F.R.C.P. Rule 56(f.)

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7 I declare under the penalty of perjury and under the Federal laws that all foregoing is true
8 and correct. Executed at San Francisco, CA on July 08, 2021.

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10 Respectfully submitted,

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12 s/ Tatyana Drevaleva

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14 Plaintiff Pro Se

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16 July 08, 2021.

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